

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

GRAYBAR ELECTRIC COMPANY, INC.,        )  
    )  
    )  
Plaintiff,                                )  
    )  
    )  
v.    )    No. 4:06 CV 1275 DDN  
    )  
    )  
FEDERAL INSURANCE COMPANY,            )  
    )  
    )  
Defendant.                                )

**MEMORANDUM AND ORDER**

On August 16, 2007, this action came before the court for a hearing on the pending motions.<sup>1</sup> For the reasons set forth on the record of the hearing,

**IT IS HEREBY ORDERED** that the motion of defendant for reconsideration (Doc. 48) of the order granting plaintiff's motion to amend the complaint is sustained. Having reconsidered the said order,

**IT IS FURTHER ORDERED** that the order (Doc. 46) granting plaintiff's motion to amend is set aside and vacated.

**IT IS FURTHER ORDERED** that the motion of plaintiff to amend the complaint (Doc. 45) is denied without prejudice. Plaintiff's proposed complaint paragraph 58 (adding a claim for vexatious refusal to pay) is dismissed without prejudice. See Bell Atlantic Corp. v. Twombly, 127 S. Ct. 1955 (2007).

**IT IS FURTHER ORDERED** that the motion of defendant to compel discovery (Doc. 49) is denied as moot without prejudice.

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/S/    David D. Noce  
UNITED STATES MAGISTRATE JUDGE

Signed on August 16, 2007.

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<sup>1</sup>The motion of the defendant to modify the case management order (Doc. 51), which is agreed to by the plaintiff, is ruled by separate order.